

CRIMINAL COURT OF THE CITY OF NEW YORK
COUNTY OF KINGS: PART AP 4

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THE PEOPLE OF THE STATE OF NEW YORK

DECISION AND ORDER

-against-

JUDITH PRUDEN,

DKT. NO. 2015SK015273

Defendant.

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MARGUERITE S. DOUGHERTY, J.

Defendant is charged in this summons with Disorderly Conduct under PL § 240.20 (4), which prohibits the disturbance of any lawful assembly or meeting of persons, with intent to cause public inconvenience, annoyance or alarm. The charges stem from defendant's alleged conduct during a Community Board 9 meeting on February 11, 2015. On July 23, 2015, defendant filed a motion to dismiss the summons for facial insufficiency pursuant to CPL 170.30 and 170.35. The People filed a response in opposition to the motion on September 9, 2015. The factual portion of the summons alleges the following:

At TPO while at a Community Board 9 meeting defendant did after repeated warnings to come to order did yell, chant, and refuse to sit down and did disrupt said meeting. As a consequence meeting was unable to convine (sic).

It is well settled that "prohibitions of pure speech must be limited to communications that qualify as fighting words, true threats, incitement, obscenity, child pornography, fraud, defamation or statements integral to criminal conduct." See People v. Marquan M., 24 NY3d 1, 7 (2014) (statute banning cyberbullying was constitutionally overbroad to the extent it prohibited some protected speech). Here, the conduct alleged in the summons;

i.e., standing, yelling and chanting, constitutes constitutionally protected speech and cannot be the sole basis for a charge of Disorderly Conduct under PL § 240.20 (4). Compare People v. Spiegel, 181 Misc. 2d 48 (Crim. Ct. NY County 1999) (defendant released live crickets into a public auction in protest). Accordingly, the motion to dismiss the summons is granted.

This opinion constitutes the decision and order of the court.

Dated: November 23, 2015
Brooklyn, NY



MARGUERITE S. DOUGHERTY, J.